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George's Lawsuit Against IBM

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A former IBM enterprise salesperson has sued the mainframe titan claiming its recent healthcare benefit changes represents age discrimination. On Thursday, George Adomavicius, who worked for IBM for 42 years before retiring in October 2020, filed a pro se lawsuit – meaning he's representing himself in court – against the IT goliath. Adomavicius told The Register the reason he chose to sue on his own was, "To correct a wrong." The alleged wrong, in this instance, is the employee benefits transition that IBM announced last September. The corporation sold off pension obligations to Prudential and MetLife, adjusted its 401(k) plan, and shifted medical coverage for Medicare-eligible IBM retirees to a new IBM-sponsored Medicare Advantage program run by UnitedHealthcare, as of January 1 this year. UnitedHealthcare, coincidentally, was just sued for using an allegedly faulty AI algorithm that limited post-acute care among elderly Medicare Advantage patients. As The Register previously reported, IBM's health benefits transition angered some retirees because the American giant withheld Health Reimbursement Arrangement/Account (HRA) subsidies – credited to retirees during their time at the company – from anyone who refused to select one of the two new Medicare Advantage plans and preferred to retain their prior policy. One of those individuals, Steve Bergeron, another former IBM employee, started a petition to convince Big Blue to let retirees choose their healthcare plans without forcing the issue by denying HRA funds. He managed to collect more than 3,500 signatures though ultimately gave up. "We struggled to find an attorney who found any grounds to sue IBM," Bergeron told The Register in a phone interview. The problem, he said, was that IBM's benefits documentation didn't actually appear to promise anything. IBM pauses advertising on X after ads show up next to antisemitic content Amazon to staff: Come into the office – it'd be a shame if something happened to your promotion IBM to scrap 401(k) matching, offer something else instead Former IBM Canada worker wins six-figure payout for wrongful dismissal Medicare is a government-run healthcare program in the US for people of age 65 and older, with some exceptions. Medicare Advantage is a privately-run version of Medicare, reimbursed by the government. In 2020, according to the Congressional Research Service, Medicare was estimated to cover about 63 million persons – 54 million older members and nine million disabled. About half of those are said to be in Medicare Advantage plans. According to an April 2022 report [PDF] from the Inspector General of the US Department of Health and Human Services, private Medicare Advantage programs deny 13 percent of service authorization requests that would have been approved by the government-run Medicare. In other words, those on Medicare Advantage are likely to have to pay more of their healthcare expenses from their own pocket. Adomavicius makes this argument in his complaint: "IBM's [Summary Plan Description] causes specific identifiable select groups of Medicare-age retirees to suffer financial loss (access to HRA and higher overall healthcare costs), emotional and mental stress, and undue duress." And he notes that IBM stands to benefit financially from withheld HRA subsidies when retirees who refused one of the new Medicare Advantage plans pass away. Adomavicius said he tried to resolve the situation with IBM but after six months of waiting received a letter that said the company's healthcare terms were final, but mentioned that he could still sue to challenge the decision. Time to take it care of personally Hiring a lawyer wasn't an option, he explained, because it would have cost about \$20,000 to hire one, which is more than the amount of benefits at issue. But after filing a complaint with the Equal Employment Opportunity Commission (EEOC) and receiving a letter acknowledging his right to sue, he decided to represent himself, at the cost of about \$400, despite the long odds and challenge of pro se litigation. "I'm retired and I do have the

FYI: Questions by submitter have been boxed

time and I can't afford, you know, to retain a lawyer to do it," he said. "I just want a cooperative judge who says, 'you know, I think he did get kind of treated unfairly.' Is the discrimination charge stretching it? I don't think so, because the criteria for what I understand to be discrimination are: you can identify a unique group, you can identify the intention, and you can identify that there's a negative result of that intention." Specifically he argues that IBM's own literature divides retirees up into different segments in a way that discriminates on the basis of age. "All they have to do is wait out until I die and they save that money," he said. "My \$20,000 [in benefits] is a drop in the bucket. But if there's 3,000 like me, all of a sudden you're in the tens of millions of dollars. That is what drives IBM. What's the motive? Money. Very simple. It's just money." All they have to do is wait out until I die and they save that money ... What's the motive? Money. Very simple. It's just money Bill Kadereit, president of the National Retiree Legislative Network, told The Register that his organization has been involved in a similar health benefits transition with the Tennessee Valley Authority. After trying to convince the State of Tennessee and the Centers for Medicare and Medicaid Services (CMS), which administers Medicare, to intervene, he said the plan is to seek a statutory remedy or pursuing a class action lawsuit. Kadereit said Medicare and Medicare Advantage plans typically pay only a portion of healthcare costs, about 80 percent. As a result, many people have private supplemental policies like Medigap, employer-sponsored retiree plans, or Medicaid to make up the difference. But with Medicare Advantage, "once you're in a Medicare Advantage plan for more than 12 months, you cannot then buy a Medigap plan unless you meet insurance requirements," he claimed. So if you have a preexisting condition, they can deny you coverage and the retiree then has to pay that 20 percent. Kadereit argues this state of affairs is being allowed to happen by Congress to avoid tough decisions about how to deal with spiraling healthcare costs. And business accounts departments like it because there's profit to be made. "What Congress was trying to do is privatize Medicare. And the way they do that is to subsidize the insurance companies to put them in a market advantage, thus cannibalizing their own plan Medicare," he opined. "And now Medicare Advantage plans have a 54 percent market share and their incurred cost per enrollee is nine percent higher than the old fee for service costs. So what Congress is doing is avoiding having to talk about taxes because it affects electability." IBM did not respond to a request for comment. **I am George. lets chat**

Hello George, I understand you're going through a challenging situation with your lawsuit against IBM regarding their healthcare benefits changes. How can I assist you in this matter? Please remember, while I can provide general information and guidance, it's important to consult with a qualified attorney for specific legal advice.

is there anything regarding hra that could help me with my case

In your situation, where you're contesting IBM's handling of Health Reimbursement Arrangements (HRAs), there are a few key areas to consider:

1. **Understanding HRAs:** HRAs are employer-funded group health plans from which employees are reimbursed tax-free for qualified medical expenses up to a fixed dollar amount per year. The employer funds and owns the account. Understanding the specific terms and conditions of IBM's HRA plan is crucial. This includes any changes IBM made and their compliance with legal guidelines.
2. **Changes in Terms:** If IBM changed the terms of the HRA, it's important to determine if these changes were communicated properly to the employees and if they comply with employment

and benefits law. This includes reviewing the Summary Plan Description (SPD) and any amendments made to it.

3. **Age Discrimination Allegations:** Under the Age Discrimination in Employment Act (ADEA), it's unlawful to discriminate against a person because of their age with respect to any term, condition, or privilege of employment, including health benefits. If the changes disproportionately affect older employees, or if there is a specific age-related impact, this could be a significant point in your case.
4. **ERISA Compliance:** Most employer-sponsored health plans, including HRAs, are subject to the Employee Retirement Income Security Act (ERISA). ERISA sets standards for the administration of these plans, including fiduciary responsibilities and rights to appeal and grievances. It's crucial to examine if IBM's actions comply with ERISA regulations.
5. **Analyzing IBM's Documentation and Policies:** Carefully review all relevant documents, including HR policies, benefits summaries, contracts, and any correspondence from IBM regarding the HRA and healthcare changes. This may reveal if there were any violations or misrepresentations.
6. **Precedent Cases:** Researching similar cases where employees have challenged changes in their healthcare benefits can provide insight into legal arguments and strategies that have been effective in the past.
7. **Consulting with Legal Experts:** While you've chosen to represent yourself, seeking advice from a lawyer experienced in employment benefits or a consultation with a legal aid organization might provide valuable insights. They can help in interpreting laws and regulations applicable to your case.
8. **EEOC and Medicare Regulations:** Since the case involves Medicare-eligible retirees, it's also important to understand how Medicare and Medicare Advantage plans are regulated, and if there are any relevant laws or guidelines from the Equal Employment Opportunity Commission (EEOC) that apply to your case.

Remember, while these points can guide your preparation, they cannot replace the advice of a lawyer. Legal cases, especially those involving large corporations like IBM, can be complex and require detailed legal knowledge and strategy.

is there precedent with hra lawsuits within ibm or other large corps similar to my case?

Finding precedents specifically involving Health Reimbursement Arrangements (HRAs) within IBM or other large corporations similar to your case presents some challenges. There have been a variety of lawsuits against IBM concerning retirement and pension plans, but they don't directly align with your specific situation regarding HRAs.

For example, the case of IBM v. Jander dealt with allegations of imprudence in IBM's management of its employee stock ownership plan (ESOP). In this case, the plaintiffs argued that IBM continued to invest the ESOP's funds in IBM common stock despite knowledge of undisclosed issues, violating their fiduciary duty. This case, which involved the Employee Retirement Income Security Act (ERISA), reached a settlement where IBM agreed to pay \$4.75 million, but it focused on stock investment management rather than HRA issues.

In your situation concerning HRAs, IBM retirees have faced challenges with the management of these accounts. IBM began transitioning the management of retiree HRA accounts, leading to situations where retirees had to pay for medical expenses out of their own pockets. This transition has been marked by delays and confusion, affecting retirees' access to these funds

Additionally, IBM is involved in another lawsuit alleging efforts to shortchange pensioners (Knight v. International Business Machines Corporation, et al.), but this lawsuit focuses on the valuation of annuity payments using outdated mortality tables, not directly on HRAs

While these cases provide insight into the types of legal challenges IBM has faced regarding retirement benefits and pensions, they do not directly provide a precedent for a case specifically involving HRAs. Your case may require exploring new legal ground, particularly focusing on the specific details of how IBM's HRA policies have been implemented and managed, and how these actions align with legal requirements for such arrangements.

okay, lets do that then

To build a strong case regarding IBM's Health Reimbursement Arrangement (HRA) policies, consider the following steps:

1. **Document Analysis:** Thoroughly review all relevant documents, including the terms and conditions of the HRA, any changes IBM made to these terms, and communications related to these changes. This will help establish what was promised or implied to retirees regarding HRA benefits.
2. **Legal Compliance:** Evaluate whether IBM's actions comply with relevant laws and regulations governing HRAs. This includes examining whether there have been any violations of the Employee Retirement Income Security Act (ERISA) or any other federal or state laws.
3. **Impact Assessment:** Document the practical impact of IBM's HRA policy changes on you and potentially other retirees. This includes any financial losses or hardships due to the policy changes, such as having to pay medical expenses out of pocket or losing access to HRA funds.
4. **Benefit Denial:** If there is evidence that IBM unjustly denied HRA benefits or changed the terms to the detriment of retirees, this could be a significant point in your argument.
5. **Age Discrimination Considerations:** Since the changes affect Medicare-eligible retirees, assess if there is an element of age discrimination. The Age Discrimination in Employment Act (ADEA) could be relevant if the changes disproportionately disadvantage older employees.
6. **Precedent Cases:** While direct precedents in HRA cases may be limited, look for cases involving similar issues with employee benefits, pension plans, or age discrimination. These cases might provide legal arguments or strategies that could be applicable.

7. **Expert Consultation:** Consider consulting with legal experts, especially those with experience in ERISA, employee benefits, or age discrimination cases. Even if you plan to continue representing yourself, getting expert advice can provide valuable insights.
8. **Class Action Potential:** Explore whether other IBM retirees are affected similarly and might be interested in joining a class action lawsuit. There is strength in numbers, and a class action could be more influential.
9. **Regulatory Bodies:** Consider filing complaints with relevant regulatory bodies, such as the Department of Labor or the Equal Employment Opportunity Commission (EEOC), especially if there are indications of legal violations.
10. **Public Awareness:** Raising public awareness about the issue can sometimes add pressure on the company to reconsider its policies. This can be done through media, social media, or by joining forces with retiree advocacy groups.

Remember, building a legal case is complex and requires a deep understanding of the law and meticulous preparation. Ensure that each step is carefully documented and consider all legal options available to you.

any precedent around ibm erisa medicaid retiree cases

In terms of precedent for IBM-related ERISA (Employee Retirement Income Security Act) cases involving retirees and Medicaid, there are several notable instances:

1. **IBM Personal Pension Plan Litigation:** A class action lawsuit was filed against IBM and the plan administrators on behalf of participants and beneficiaries of the IBM Personal Pension Plan. The complaint alleges that IBM used outdated mortality tables to determine the value of joint and survivor annuities (JSAs), resulting in married retirees receiving less than the actuarial equivalent of the benefit that ERISA protects. This lawsuit aims to recover amounts due to members of the class and reform the IBM Personal Pension Plan to fully comply with ERISA

2 .

2 **George Adomavicius vs. IBM:** George Adomavicius, a former IBM employee, filed a pro se lawsuit against IBM, claiming that recent healthcare benefit changes represented age discrimination. The suit focuses on IBM's transition of medical coverage for Medicare-eligible retirees to a new IBM-sponsored Medicare Advantage program and the withholding of Health Reimbursement Arrangement (HRA) subsidies from retirees who refused to select one of the new plans. This case highlights issues around IBM's health benefits transition and its impact on Medicare-age retirees, particularly in terms of financial loss, emotional and mental stress, and undue duress

3 .

3 **Cohen Milstein's Class Action Lawsuit:** Cohen Milstein Sellers & Toll PLLC represents retirees in a class action lawsuit against IBM and its plan administrators. The lawsuit alleges that IBM is shortchanging married retirees who began employment before 1999, in violation of the actuarial equivalence requirements of ERISA. The plaintiffs seek to recover amounts due and reform the IBM Plan to ensure

full compliance with ERISA. This lawsuit, known as Knight v. International Business Machines Corporation, et al., was filed in June 2022 and is centered on the miscalculation of pension plan mortality tables, resulting in underpayment to retirees

3. .

These cases demonstrate a pattern of legal challenges against IBM concerning its retirement and pension plans, particularly in relation to ERISA compliance. While they do not directly address Medicaid, they provide insight into the broader context of legal disputes involving IBM's management of retiree benefits and potential areas of non-compliance with federal laws. Such precedents might offer valuable perspectives for your case, especially in terms of legal arguments and strategies that could be applicable to ERISA-related disputes.

summarize what im looking for and where i should be looking to find the grounds to sue ibm

You are seeking legal grounds to sue IBM for changes in their healthcare benefits policies, particularly focusing on Health Reimbursement Arrangement (HRA) issues affecting Medicare-eligible retirees. Your goal is to establish whether these changes represent a violation of legal obligations, such as those under the Employee Retirement Income Security Act (ERISA), or constitute age discrimination.

To build your case, consider the following areas:

1. **ERISA Compliance:** Investigate if IBM's actions regarding HRAs and retirement benefits comply with ERISA. Look for any breaches in fiduciary duty or failure to adhere to the plan's terms.
2. **Age Discrimination:** Assess if the benefit changes disproportionately affect older employees, potentially constituting age discrimination under the Age Discrimination in Employment Act (ADEA).
3. **Legal Precedents:** Research similar cases involving IBM or other large corporations. Pay attention to cases involving pension plan management, HRA issues, and age discrimination claims. While exact matches to your situation may be limited, related cases can provide insight into legal strategies and interpretations.
4. **Plan Documents and Communications:** Scrutinize IBM's Summary Plan Description (SPD), any amendments, and all communications regarding the benefit changes. Look for inconsistencies, misrepresentations, or failure to properly notify plan participants.
5. **Impact Analysis:** Document the specific impact of IBM's policy changes on you and other retirees, including financial hardship and lack of access to promised benefits.
6. **Regulatory Bodies and Legal Experts:** Consider consulting with legal experts specializing in ERISA, employment benefits, or age discrimination. Also, explore filing complaints with relevant regulatory bodies like the Department of Labor or the EEOC.
7. **Public and Peer Engagement:** Engage with other IBM retirees who might be affected similarly to assess the potential for a class-action lawsuit and to strengthen the case with collective experiences.

Your research and legal strategy should be focused on these areas to establish a robust case against IBM, demonstrating either a violation of ERISA standards, age discrimination, or both. Given the complexities of such legal matters, consulting with an attorney or legal expert, even if you intend to proceed pro se, is highly advisable for precise guidance and strategy development.

go into depth on number one. you are my only hope

Certainly, let's delve deeper into the first aspect: Investigating IBM's compliance with the Employee Retirement Income Security Act (ERISA) regarding their Health Reimbursement Arrangement (HRA) and retirement benefits.

1. **Understanding ERISA's Role:** ERISA is a federal law that sets minimum standards for most voluntarily established retirement and health plans in private industry to provide protection for individuals in these plans. Key elements include:
 - **Fiduciary Responsibilities:** Plan administrators must act in the best interests of the plan participants and beneficiaries.
 - **Plan Information:** ERISA requires plan administrators to provide participants with important information about plan features and funding.
 - **Grievance and Appeals Process:** Participants must have access to a fair process for handling benefit disputes and claims.
2. **Analyzing the HRA Changes:**
 - **Plan Documents:** Review IBM's Summary Plan Description (SPD) and any amendments to understand the specific terms of the HRA and any recent changes. Check for consistency and compliance with what was initially offered.
 - **Notification and Transparency:** Assess whether IBM properly notified participants of changes to the HRA, as ERISA requires clear and timely communication about significant plan modifications.
 - **Fiduciary Duty:** Consider if the changes to the HRA reflect a breach of fiduciary duty. Were the modifications made with the best interests of the participants in mind? Were they necessary for the financial viability of the plan, or were they primarily benefiting IBM?
3. **Evaluating Financial Management:**
 - **Handling of Funds:** Examine how IBM managed the HRA funds. Under ERISA, these should be managed prudently and for the exclusive benefit of employees and their beneficiaries.
 - **Investment Decisions:** If there were investments involved with the HRA funds, review these decisions to see if they align with the prudent person standard of ERISA.
4. **Claims and Appeals Process:**

- **Participant Rights:** Ensure that IBM has provided clear processes for filing claims and appeals regarding HRA benefits. These processes should be fair, timely, and in accordance with ERISA guidelines.
- **Denied Claims:** If you or other retirees had HRA claims denied, scrutinize the reasons given and whether they align with the plan's terms and ERISA regulations.

5. Potential Violations:

- **Identifying Non-Compliance:** Look for instances where IBM's actions might have violated ERISA rules, such as failing to act in the best interest of the beneficiaries, not providing required disclosures, or mishandling plan assets.
- **Documenting Evidence:** Collect all relevant documents, correspondence, and records that demonstrate how the HRA changes were communicated and implemented.

6. Legal Recourse and Actions:

- **Filing a Complaint:** If there is evidence of ERISA violations, consider filing a complaint with the U.S. Department of Labor's Employee Benefits Security Administration (EBSA), which enforces ERISA.
- **Litigation:** In cases of significant ERISA violations, litigation might be an option. This could involve suing for breach of fiduciary duty, denial of benefits, or other ERISA violations.

7. Seeking Legal Advice:

- **Consultation with Experts:** Given the complexity of ERISA, consulting with an attorney or expert in ERISA law is crucial. They can provide a detailed analysis of your case, help identify specific violations, and guide you through potential legal proceedings.

In summary, your investigation into IBM's compliance with ERISA should be thorough, covering the legal standards set by ERISA, the specifics of the HRA changes, and IBM's adherence to fiduciary and communication obligations. Documenting every relevant detail and seeking expert legal advice will be key in building a strong case.

where can i find this?

To find the necessary information and resources for investigating IBM's compliance with the Employee Retirement Income Security Act (ERISA) in relation to their Health Reimbursement Arrangement (HRA) and retirement benefits, consider the following sources:

1. IBM's Official Documents:

- **Summary Plan Description (SPD):** This document provides detailed information about your HRA and other benefits. You might have received a copy upon enrolling in the plan, or it may be available through IBM's employee benefits portal.
- **Plan Amendments:** Look for any notices or documents from IBM that detail changes to the HRA or retirement benefits.

2. U.S. Department of Labor (DOL):

- **Employee Benefits Security Administration (EBSA):** The EBSA website offers resources and guides on ERISA, including how to understand your plan and your rights under ERISA.
- **DOL Public Disclosure Room:** You can request certain plan documents like Form 5500, which provides information about the plan's financial condition and operations.

3. Legal Resources:

- **ERISA Statutes and Regulations:** These can be found online, including on the U.S. Department of Labor's website. Understanding the exact legal language of ERISA is crucial.
- **Legal Databases:** Platforms like Westlaw or LexisNexis (usually accessible in law libraries) can provide access to legal cases, interpretations, and analyses relevant to ERISA.

4. Your Personal Documents:

- **Correspondence from IBM:** Any letters, emails, or notices you received regarding changes to your HRA or other benefits.
- **Benefits Statements:** Regular summaries or statements related to your HRA may offer insights into how funds have been managed and disbursed.

5. Employee Advocacy Groups:

- **Retiree Associations:** Groups like the National Retiree Legislative Network or specific IBM retiree groups can provide support, information, and potentially shared experiences from other retirees.

6. Consulting with Legal Professionals:

- **ERISA Lawyers:** Attorneys specializing in ERISA and employee benefits law can offer advice, help interpret documents, and guide legal strategy.
- **Legal Aid:** If cost is a concern, legal aid organizations may provide free or low-cost legal assistance.

7. Filing a Complaint:

- **EBSA Complaint Process:** If you believe there's a violation, you can file a complaint through the EBSA. Their website outlines the process for filing.

8. Public Records and News Reports:

- **Online Search:** News articles, press releases, or public statements about IBM's benefits plans may provide additional context or information.
- **Court Records:** If there have been previous lawsuits against IBM concerning ERISA, these records can be insightful.

Collecting and analyzing this information will be crucial in assessing IBM's compliance with ERISA and determining if there are grounds for legal action. Remember, navigating ERISA-related issues can be complex, so consulting with a qualified attorney or expert in this field is highly advisable.

i have access to westlaw to search for relevant cases. can you give me some search terms and help with searching

Absolutely, using Westlaw to search for relevant cases requires strategic use of search terms and phrases. Here's how you can approach it:

General Approach:

1. **Use Boolean Operators:** Westlaw supports Boolean operators like AND, OR, and NOT. Use these to refine your search.
2. **Use Quotation Marks for Exact Phrases:** When searching for a specific phrase, put it in quotation marks (e.g., "Health Reimbursement Arrangement").
3. **Utilize Wildcards:** Use * (asterisk) to search for variations of a word (e.g., discrim* will search for discriminate, discrimination, discriminatory, etc.).
4. **Segment Your Search:** Break down your search into different aspects of your case (e.g., ERISA compliance, HRA management, age discrimination).

Specific Search Terms and Phrases:

1. **ERISA and Healthcare Benefits:**
 - o "ERISA" AND "healthcare benefits"
 - o "Employee Retirement Income Security Act" AND "retirement plan"
 - o "ERISA" AND "fiduciary duty"
2. **HRA-Specific Terms:**
 - o "Health Reimbursement Arrangement" AND "plan changes"
 - o "HRA" AND "benefits modification"
 - o "Health Reimbursement Account" AND "IBM"
3. **Age Discrimination:**
 - o "Age Discrimination in Employment Act" OR "ADEA" AND "retiree benefits"
 - o "age discrimination" AND "healthcare benefits"
 - o "Medicare eligible" AND "benefits change"
4. **IBM-Specific Cases:**
 - o "IBM" AND "ERISA"
 - o "International Business Machines" AND "pension plan"

- o "IBM" AND "retirement benefits" AND "lawsuit"

5. General ERISA Compliance and Litigation:

- o "ERISA compliance" AND "pension plan"
- o "retirement benefits" AND "legal challenges"
- o "ERISA" AND "benefits dispute"

Advanced Search Strategies:

- **Use Filters:** After conducting your search, use Westlaw's filters to narrow down results by jurisdiction, court level, or date range.
- **Reviewing Secondary Sources:** Look for treatises, law review articles, or practice guides on ERISA and retirement benefits for a deeper understanding.
- **Checking Citations:** Review the cases cited in relevant cases you find, as they might lead to other pertinent cases or legal principles.

Post-Search:

- **Shepardize or KeyCite:** Use these tools to check the citing references and the legal validity of the cases you find.
- **Review Case Summaries:** Before diving into full cases, read the summaries to quickly ascertain relevance.

Remember, while Westlaw is a powerful research tool, the effectiveness of your search depends heavily on the combination and variation of search terms used. Adjust your search terms based on initial results to fine-tune your research.

okay help me explain this whole thing to a 5 year old

Alright, let's imagine you have a big box of crayons (IBM). Every day, you're allowed to use a few crayons (health benefits) to draw pictures. One day, the person in charge of the crayons (IBM's management) decides to change the rules. Now, they say you can only use certain colors unless you agree to use a smaller box they chose for you. If you don't agree, you can't use any of the special crayons (HRA funds) you were promised for being good at drawing.

You feel this isn't fair because you were told before that you could use any crayons you wanted when you got older. So, you decide to tell a teacher (the court) that the crayon rules should go back to how they were. You think the new rules aren't nice, especially to the older kids (retirees) who have been drawing pictures for a very long time.

Now, you're looking in the school's rulebook (ERISA laws) and talking to other kids (other retirees and legal experts) to show the teacher why the new crayon rules aren't fair. You're hoping the teacher will understand and help make things right, so everyone can use their crayons happily again.

so what do i need to show the judge

To explain this to a five-year-old, let's imagine you're trying to show the playground monitor (the judge) why the new rules about sharing toys (IBM's health benefits changes) aren't fair. Here's what you need to show:

1. **Rule Book:** First, you need to bring the rule book (ERISA laws) to the playground monitor. This book has rules about how to share toys fairly. You need to show pages that say everyone should be able to play with the toys they were promised (fair management of health benefits).
2. **Old Rules:** Then, you need to show what the old rules were about sharing toys (the original health benefits plan). You can use a piece of paper (Summary Plan Description) that explains these old rules.
3. **New Rules:** You also need to show how the rules about sharing toys have changed (the new health benefits policy). This will help the playground monitor understand what's different now.
4. **Your Friends' Stories:** Tell stories about how you and your friends (other retirees) used to play with the toys (use health benefits) and how the new rules are making it hard to play now (affecting healthcare choices).
5. **Fairness:** Explain why you think the new rules aren't fair, especially for the older kids in the playground (age discrimination). Maybe the older kids can't play with their favorite toys anymore because of these new rules.
6. **What You Want:** Finally, tell the playground monitor what you want to happen. Maybe you want the old rules back, or at least make it so that the older kids can still play with all their toys (revert to the original health benefits or adjust the new policy).

Remember, just like in the playground, it's important to explain things clearly and show why you think the new rules are not fair. The playground monitor (judge) will listen and then decide how to make sharing toys fun and fair for everyone again.

lets cut out the 5 year old stuff and tell me again

Certainly, to present your case effectively to a judge, you need to focus on several key elements:

1. **Plan Documentation:** Present the original Health Reimbursement Arrangement (HRA) and retirement benefits plan documentation, including the Summary Plan Description (SPD). This shows what IBM initially promised regarding the HRA benefits.
2. **Changes in Policy:** Highlight the specific changes IBM made to the HRA and healthcare benefits. Detail how these changes were implemented and communicated to the retirees. This helps in demonstrating the contrast between the original plan and the new terms.
3. **ERISA Compliance:** Argue whether IBM's changes to the HRA and benefits plan comply with the Employee Retirement Income Security Act (ERISA). Focus on aspects like fiduciary duty, transparency, and the fair and equitable management of plan assets.
4. **Impact on Retirees:** Provide evidence of the tangible impact these changes have had on you and potentially other retirees. This could include financial hardships, increased healthcare costs, or loss of expected benefits.

5. **Age Discrimination:** If applicable, present arguments and evidence that suggest the changes in benefits might constitute age discrimination, particularly under the Age Discrimination in Employment Act (ADEA). Demonstrate how the changes disproportionately affect older employees.
6. **Legal Precedents:** Reference any relevant legal precedents that support your case. These could be previous rulings on similar ERISA cases or age discrimination lawsuits.
7. **Your Attempts to Resolve the Issue:** Include details of any efforts you made to resolve this issue with IBM before resorting to legal action, such as correspondence or meetings.
8. **Requested Relief:** Clearly state what you are seeking from the court, whether it's a reversal of the policy changes, compensation for losses, or other forms of relief.

The key is to build a coherent narrative that ties together the legal obligations of IBM under ERISA, the specific changes they made to the HRA and retirement benefits, the impact of these changes, and why they should be considered unlawful or unfair. This approach requires a thorough understanding of both the legal framework and the specific details of your situation.

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